

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**Agenda ID 13145
RESOLUTION E-4669
August 14, 2014**

R E S O L U T I O N

Resolution E-4669. Pacific Gas and Electric (PG&E) requests approval from the California Public Utilities Commission (CPUC) authorizing PG&E under Public Utilities (PU) Code § 851 to grant the City of Salinas (City) a perpetual road and public utilities easement on a portion of PG&E's property, described in the deed recorded in Volume 115 of Deeds at Page 424, Monterey County Records, lying within the Rancho Nacional, City of Salinas, County of Monterey.

PROPOSED OUTCOME:

- This Resolution approves PG&E's Advice Letter 4431-E seeking authority to grant the City a perpetual road and public utilities easement on a portion of PG&E's property.

SAFETY CONSIDERATIONS:

- PG&E indicated that the proposed transaction will not interfere with the safe operation of PG&E's facilities. All utilities are expected to comply with all federal and state safety regulations, including P U Code section 451.

ESTIMATED COST:

- PG&E will collect \$1,000 associated with this transaction; however, since this land was formerly used to support an electric transmission corridor, this amount collected from the City will become part of the Federal Energy Regulatory Commission (FERC) rate case.

By Advice Letter 4431-E, dated June 2, 2014.

SUMMARY

PG&E submitted Advice Letter (AL) 4431-E seeking approval under PU Code Section 851 to grant the City of Salinas (City) a perpetual road and public utilities easement on a portion of PG&E's property, described in the deed recorded in Volume 115 of Deeds at Page 424, Monterey County Records, lying within the Rancho National, City of Salinas, County of Monterey.

This Resolution approves PG&E's Advice Letter 4431-E because the transaction is valued at less than \$5 million, the Lead Agency has completed its CEQA review, and the utility may request approval of the transaction by Advice Letter. (PU Code Sections 851, 853).

BACKGROUND

PU Code § 851 requires public utilities to obtain prior authorization from the Commission before selling, leasing, assigning, or otherwise disposing of or encumbering utility property.

On August 25, 2005, Resolution ALJ - 186 implemented a 24-month pilot program to simplify the disposition of certain types of transactions under PU Code § 851. Participation in the pilot program is optional. Applicants may choose to submit a regular application under section 851 for transactions that qualify for this pilot project.

On August 18, 2011, Resolution ALJ - 272 extended the pilot program for another year (until August 23, 2012). The Commission then adopted General Order (GO) 173 to modify and make permanent the former pilot program regulations for Section 851 Advice Letters.

On June 2, 2014, Advice Letter 4431-E was appropriately filed pursuant to the pilot program to expedite the transactions via Advice Letter that otherwise would be subject to a full PU Code section 851 application.

In 2009, a range of traffic circulations network operational deficiencies was identified as part of the traffic impact analysis conducted for a Salinas-Ag Industrial Center Program Environmental Impact Report.

In 2010, the City modified their Traffic Impact Fee Ordinance (TFO) to add traffic network improvements to correct the above operational deficiencies. The City identified these improvements in their Sanborn Road/U.S. Highway 101 and Elvee Drive Improvement Project (Project) and listed this Project in the City of Salinas Traffic Improvement Program 2010 Update (TIP).

The requested easement is a rectangular strip of land approximately 12-feet wide and 16-feet long, approximately 912 square feet, on PG&E's approximately 9,932 square-foot property. The subject property is not paved nor does it have an assessor's parcel number or improvements. It is described in the deed recorded in Volume 115 of Deeds at Page 424, Monterey County Records, lying within the Rancho Nacional, City of Salinas, County of Monterey. It is located on Elvee Drive just north of the 30-foot wide Reclamation Ditch. It supports PG&E electric transmission, overhead electric distribution, and gas distribution facilities. PG&E will relocate its facilities to another section of its fee property to accommodate this Project.

Two of the Project components, which are affected by PG&E's easement, involve construction of a new roadway and a concrete bridge to extend Elvee Drive.

The new roadway will extend Elvee Drive from the existing north end of Elvee Drive at approximately 225 feet north of the Reclamation Ditch to Work Street.

This Project also will construct a 49-foot long clear-span bridge with a 38 feet bridge opening to allow the extension of Elvee Drive to cross over the Reclamation Ditch. The superstructure of the bridge would be constructed of pre-cast, pre-stressed concrete slabs. This Project does not require modification of the bed or bank of the Reclamation Ditch.

The easement requested of PG&E will allow the City to construct this concrete span bridge over the Reclamation Ditch tangent to PG&E's property.

Construction is expected to be initiated in 2014, and take approximately nine months to complete.

NOTICE

Notice of AL 4431-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter AL 4431-E was not protested.

DISCUSSION

PG&E's request to grant the City a perpetual road and public utilities easement on a portion of PG&E's property will be evaluated based on:

- nature of the request
- review of easement deed
- environmental consequences
- safety and reliability
- cost or savings

Nature of the Request

The City will use the easement for the Sanborn Road/U.S. Highway 101 and Elvee Drive Improvement Project. The easement will serve public interest by improving vehicle circulations in this industrial and commercial area as well as emergency vehicle response time.

Review of the Easement Deed

Staff has reviewed the associated Easement Deed and it reflects the interests of the public. PG&E and the City have agreed upon a fair market value of the property based on an appraisal report prepared by the Appraisal Resource Group. The easement deed addressed handling of potential environmental hazards, insurance, and the proper uses of the easement.

Environmental Consequences

CPUC, acting as a Responsible Agency, concurs with the City's Mitigated Negative Declaration (MND).

CEQA requires the Commission to consider the environmental consequences of its discretionary decisions. Pursuant to CEQA and Rule 2.4 of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine whether any potential environmental impacts are likely in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible. In this instance, the Commission is not a Lead Agency, but a Responsible Agency under CEQA with respect to the environmental review of the Project underlying the easement agreement with PG&E. The City as the lead agency developed an Environmental Assessment/Initial Study (EA/IS) and a MND. The draft EA/IS and MND were circulated for public review from March 21, 2014 to April 21, 2014. The City adopted Resolution Number 20549 to approve the final MND on May 6, 2014, and issued a Notice of Determination on May 7, 2014. The Commission, as a Responsible Agency, must consider the City's findings and conclusions as set out in their MND and determine whether to approve the project.

The Final IS/MND concluded that the effect of this Project on disturbance of buried human remains, special status species, historical and archaeological resources, and disturbance of aerially deposited lead in soils could be reduced to less than significant impacts with the following prescribed mitigation measures.

Disturbance of Buried Human Remains

The IS stated that based on information contained in the cultural resources report, the Project site does not display specific physical characteristics that indicate it may contain unknown/unidentified human remains. However, if human remains are found during construction within the Project site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until an archeological monitor and the coroner of Monterey County are contacted. If it is determined that the remains are Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for

the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code section 5097.98. Implementation of the above mitigation measure will ensure that if human remains are uncovered, they will be appropriately protected and treated. Implementation of this mitigation measure would reduce the potential impact to less than significant.

Special Status Species

In order to avoid the possibility of significant impacts to nesting birds protected by the California Fish and Game Code and/or the federal Migratory Bird Treaty Act; project noise generation, ground disturbance, vegetation removal, and other construction activities will be scheduled to begin during the period from September 16th to January 31th, which is outside the nesting bird season. The nesting bird season extends from February 1st to September 15th.

Historical and Archaeological Resources

Significant paleontological resources are fossils or assemblages of fossils that are unique, unusual, rare, and uncommon. Most of the fossils found in Monterey County are of marine life forms. The IS indicated that a general field reconnaissance was performed in areas of the Project site that could reasonably be expected to contain visible cultural resources and that could be surveyed without major vegetation removal. It stated that no evidence of potentially significant archeological or historic resources was found in any part of the Project area. However, in the event that significant paleontological and/or archaeological remains are uncovered during excavation and/or grading, all work shall stop in the area of the subject property until an appropriate data recovery program can be developed and implemented by a qualified archaeologist. Implementation of the above mitigation measure will ensure that potential impacts due to accidental discovery of buried historic or cultural resources will be reduced to a less-than-significant level by requiring that if a find is made, activity is stopped, the resource is evaluated, and appropriate measures are taken.

Disturbance of Aerially Deposited Lead in Soils

The City will retain a qualified expert to conduct soil testing for aerially deposited lead in locations where Project grading and excavations may have potential to result in release of aerially deposited lead. The testing scope should include preparation of a site-specific work plan specifying surface sample or soil

boring locations, sample collection, laboratory analysis, preparation of findings, and recommendations.

Safety and Reliability

PG&E stated that this traffic improvement Project will not interfere with the safe operation of PG&E's facilities, or with the provision of service to PG&E's customers. In fact, the easement will facilitate the construction of the Project, which upon completion will improve traffic circulations and emergency vehicles response time.

Cost or Savings

PG&E will receive a one-time fee of \$1,000 for granting the easement, and account for this one-time fee as Electric Other Operating Revenue. However, since this land supports an electric transmission corridor, this amount collected from the City will become part of the Federal Energy Regulatory Commission (FERC) rate case. Also, since no PG&E property is sold or disposed, there are no changes to PG&E's distribution rate base as a result of granting the proposed easement.

Summary

The Commission has evaluated this Advice Letter based on the nature of the request, review of the easement deed, safety, reliability, costs, and the CEQA findings of the final MND. We find that results of the above evaluations are satisfactory and the City's MND findings and conclusions represents our independent judgment regarding the potential environmental impacts of the proposed Project. We find that all potential environmental impacts have been sufficiently mitigated by the measures included in the MND. Therefore, we will adopt the Easement Deed and the MND.

COMMENTS

P.U. Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the CPUC. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

All parties in the proceeding have stipulated to waive the 30-day review period required by P.U. Code section 311(g)(1) and the opportunity to file comments on

the draft resolution. Accordingly, this matter will be decided by the CPUC on August 14, 2014.

FINDINGS

1. PU Code § 851 requires public utilities to obtain prior authorization from the Commission before selling, leasing, assigning, or otherwise disposing of or encumbering utility property.
2. Resolution ALJ-186 implemented a 24-month pilot program to simplify the disposition of certain types of transactions under PU Code § 851.
3. The Commission adopted General Order (GO) 173 to modify and make permanent the former pilot program regulations for Section 851 Advice Letters.
4. AB 698 amends Sections 851 and 853 to provide authority for certain Advice Letters to be approved by the Executive Director or Division Director.
5. PG&E submitted Advice Letter 4431-E on June 2, 2014, seeking authority pursuant to PU Code section 851 to grant the City a perpetual road and public utilities easement on a portion of PG&E's property, described in the deed recorded in Volume 115 of Deeds at Page 424, Monterey County Records, lying within the Rancho Nacional, City of Salinas, County of Monterey.
6. PG&E appropriately filed Advice Letter 4431-E pursuant to GO 173 to expedite certain transactions via Advice Letter that otherwise would be subject to a full PU Code section 851 application (Resolution ALJ-272).
7. PG&E served all required parties in accordance with General Order 96-B, Section IV.
8. Protests to Advice Letter 4431-E were due no later than June 23, 2014. No protests were received.
9. The City acted as the Lead Agency pursuant to CEQA for environmental review of the proposed Project.
10. The City circulated the draft EA/IS and MND for public review from March 21, 2014 to April 21, 2014. The final MND was approved by the City Resolution Number 20549 on May 6, 2014.
11. The City issued a Notice of Determination on May 7, 2014.
12. The City's MND examined the Project in detail and all related impacts.

13. The MND concluded that all impacts of the Project could be reduced to less-than-significant levels.
14. The City has examined and approved the Project, finding that the entire construction Project will not have a significant adverse effect on the environment.
15. The CPUC is a Responsible Agency pursuant to CEQA for the environmental review of the underlying easement agreement with PG&E.
16. The CPUC's decision to grant or deny the relief sought in AL 4431-E requires that the Commission consider the analysis and conclusions of the City's environmental review findings, conclusions, and mitigation measures identified therein.
17. The Commission reviewed and considered the MND; including the findings, conclusions, and mitigation measures therein; and determined that its findings and conclusions reflect our independent judgment.
18. We conclude that the MND is competent, comprehensive and has been completed in compliance with CEQA and the Public Resources Code, and should be adopted by the Commission as adequate for our decision-making purposes.
19. Pursuant to PU Code section 311(g)(2) and Rule 14.6(c)(2) the 30-day comment period for Draft Resolutions is being waived.
20. PG&E will collect \$1,000 associated with this transaction.
21. PG&E stated that this traffic improvement Project will not interfere with the safe operation of PG&E's facilities, or with the provision of service to PG&E's customers.
22. The CPUC should adopt the Easement Deed and the MND.

THEREFORE IT IS ORDERED THAT:

1. The final Mitigated Negative Declaration prepared by the City of Salinas for the Sanborn Road/U.S. Highway 101 and Elvee Drive Improvement Project is adequate for the Commission's decision-making purposes and is hereby adopted pursuant to CEQA.
2. AL 4431-E is approved.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 14, 2014, the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director